

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ELIZABETH HIGGINS, et al.,)	
)	
Plaintiffs,)	8:08CV15
)	
vs.)	ORDER
)	
JOACHIM DANKIW, et al.,)	
)	
Defendants.)	

This matter is before the court regarding two of the plaintiff's filings.

On July 9, 2008, the plaintiffs filed the Statement of Appeal of Magistrate Judge's Order ([Filing No. 37](#)).¹ The order which is the subject of the appeal is an order dated June 24, 2008 ([Filing No. 34](#)) related to a previous motion to stay and motion for bifurcation of claims. The appeal has been fully briefed. However, on August 6, 2008, the plaintiffs filed the Motion to Vacate or Set Aside the Order of June 24, 2008, to Deny Bifurcation, and to Grant a Partial Stay of Discovery ([Filing No. 43](#)). In the August 6, 2008 motion, the plaintiffs seek a reconsideration of the June 24, 2008 order in light of the plaintiffs' later filed Amended Complaint ([Filing No. 41](#)). Although the August 6, 2008 motion references the June 24, 2008 Order, it is not a proper motion for reconsideration pursuant to [NECivR 60.1](#). Nonetheless, the August 6, 2008 motion seeks a modification of the resolution of issues currently being reviewed on appeal. At a minimum, it is an inefficient use of judicial resources for the undersigned magistrate judge to reconsider issues currently on appeal before Chief Judge Joseph F. Bataillon. Accordingly,

IT IS ORDERED:

1. The plaintiffs shall have until **August 19, 2008**, to elect whether they wish to proceed with the appeal ([Filing No. 37](#)) or the motion to modify the existing stay ([Filing No.](#)

¹As a convenience, this document contains certain cross-document hyperlinks to documents previously filed in this case. This document also contains links to the Nebraska local rules. The hyperlinked documents appear in blue underlined text. Except with regard to the local rules, access to the hyperlinked material is subject to fees pursuant to user agreements. The hyperlinks may be accessed without PACER fees by use of the public computer terminal in the Clerk's office.

[43](#)). The plaintiffs shall make such election by filing a motion to voluntarily withdraw or abandon one of the petitions for action. Absent an election by the plaintiffs, the court will strike the later filed motion.

2. The Motion to Vacate or Set Aside the Order of June 24, 2008, to Deny Bifurcation, and to Grant a Partial Stay of Discovery ([Filing No. 43](#)) is held in abeyance pending the plaintiffs' compliance with this order. The defendants' response deadline, if any, will be set by future order of the court.

DATED this 12th day of August, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge